Case 3:06-cv-00266-MLC-JJH Document 33 Filed 06/15/07 Page 1 of 4 PageID: 1047

# United States Court of Appeals for the Federal Circuit

2006-1401

MERCK & CO., INC.,

Plaintiff-Appellee,

٧.

HI-TECH PHARMACAL CO., INC.,

Defendant-Appellant.

# **Judgment**

RECEIVED JUN 1 5 2007

ON APPEAL from the

United States District Court for the

District of New Jersey

In CASE NO(S).

3:06-CV-00266 and 3:06-CV-00268

This CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

AFFIRMED.

ENTERED BY ORDER OF THE COURT

MAR 2 9 2007 DATED

Jan Horbaly, Clerk

JUN 1 1 2007 issued as Mandate: COSTS:

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Caption: Merck & Co., Inc. v. Hi-Tech Pharmacal Co., Inc.

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Attorney for: Merck & Co.

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Plaintiff-Appellee,

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Defendant-Appellant

Robert L. Baechtold, Fitzpatrick, Cella, Harper & Scinto, of New York, New York, argued for plaintiff-appellee. With him on the brief was <u>Bruce M. Wexler</u>.

William L. Mentlik, Lerner, David, Littenberg, Krumholz & Mentlik, LLP, of Westfield, New Jersey, argued for defendant-appellant. With him on the brief was Roy H. Wepner. Of counsel on the brief was Alfred B. Engelberg, of Palm Beach, Florida.

Appealed from: United States District Court for the District of New Jersey

Judge Mary L. Cooper